

### **DETAILED ACTION**

**This action is in response to the application filed on August 3, 2006.**

#### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference character 30' in Figure 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

2. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an

improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Reference characters should be removed from the abstract.

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In order to avoid the use of legal phraseology in the abstract, the term "comprises" should be from this section of the application.

4. The disclosure is objected to because of the following informalities: on page 4 of the application "slot-shaped opening 15" should be changed to --open 15-- and "collar 10" should be changed to --annular part 10-- in order to maintain consistency throughout the document. Further, on page 5 of the application "opening 15" should be changed to --open 15--, "fastening means 25', 25" " should be changed to --fastener 25', 25"--, "protective collar 10" should be changed to --annular part 10-- and "the two parts 25', 25" " should be changed to --fastener 25', 25"-- in order to maintain consistency throughout the document.

Appropriate correction is required.

### ***Claim Objections***

5. Claims 8 and 13 contain the trademark/trade name VELCRO®. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe hook and loop material and, accordingly, the identification/description is indefinite.

Appropriate correction is required.

6. Claims 10 and 15 are objected to because of the following informalities: these claims depend on claim 4, which has been cancelled. Thus, these claims are improper dependent claims. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 7-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartunian (US patent 6,058,517).

[Claim 1] In Figure 1, Hartunian teaches a substantially flat annular part (10) that is open to one side (20), thereby forming two annular ends, wherein the collar comprises a fastening means (21, 24', 25) in the area of the annular ends. In Figure 2 Hartunian teaches that the annular ends can be fixed one to the other forming a collar in the shape of a truncated cone. In column 4, lines 4-7 Hartunian teaches that the fastening means is configured as a VELCRO® fastener that is adapted to join the two annular ends. This is further taught by Hartunian in Figure 4. In claim 5, Hartunian

teaches that the annular part (10) is formed from foam, a flat cushion filled with a flat molded body. A smooth material surrounds the foam.

[Claim 7] In regards to claim 7, Hartunian teaches the apparatus of claim 1 (see rejection of claim 1). In Figure 1, Hartunian teaches that the annular part (10) has a one-piece design.

[Claim 8] In regards to claim 8, Hartunian teaches the apparatus of claim 1 (see rejection of claim 1). In column 4, lines 4-7 Hartunian teaches that the fastening means is configured as a VELCRO® fastener.

[Claim 9] In regards to claim 9, Hartunian teaches the apparatus of claim 1 (see rejection of claim 1). In column 4, lines 27-29 Hartunian teaches that the annular part (10) is made from foam, which is a lightweight material.

[Claim 11] In regards to claim 11, Hartunian teaches the apparatus of claim 1 (see rejection of claim 1). In column 4, lines 4-7 Hartunian teaches that the fastening means is configured as a VELCRO® fastener. In Figures 1 and 2 Hartunian teaches that the fastening means (21, 25, 24') are provided on the annular part (10) for fastening or fixing a substantially tube-shaped therapeutic device.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2, 12-14 and 16 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Hartunian (US patent 6,058,517) in view of Neel (US patent 3,921,626).

[Claim 2] In Figure 1, Hartunian teaches a substantially flat annular part (10) that is open to one side (20), thereby forming two annular ends, wherein the collar comprises a fastening means (21, 24', 25) in the area of the annular ends. In Figure 2 Hartunian teaches that the annular ends can be fixed one to the other forming a collar in the shape of a truncated cone. In column 4, lines 4-7 Hartunian teaches that the fastening means is configured as a VELCRO® fastener that is adapted to join the two annular ends. This is further taught by Hartunian in Figure 4. In claim 5, Hartunian teaches that the annular part (10) is formed from foam, a flat cushion filled with a flat molded body. A smooth material surrounds the foam. Hartunian does not teach that a detachable envelope material that is intended to be placed on top of the annular part. Neel teaches in column 2, lines 3-5 an analogous device in which the protective collar (10) is in use with a detachable envelope material (14). In Figure 3 Neel teaches that the detachable envelope material (14) is intended to be placed on top of the protective

collar (10). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the protective collar taught by Hartunian with the detachable envelope material taught by Neel because that element is known to make the protective collar taught by Hartunian more comfortable when applied for therapeutic use.

[Claim 12] In regards to claim 12, Hartunian and Neel teach the apparatus of claim 2 (see rejection of claim 2). In Figure 1, Hartunian teaches that the annular part (10) has a one-piece design.

[Claim 13] In regards to claim 13, Hartunian and Neel teach the apparatus of claim 2 (see rejection of claim 2). In column 4, lines 4-7 Hartunian teaches that the fastening means is configured as a VELCRO® fastener.

[Claim 14] In regards to claim 14, Hartunian and Neel teach the apparatus of claim 2 (see rejection of claim 2). In column 4, lines 27-29 Hartunian teaches that the annular part (10) is made from foam, which is a lightweight material.

[Claim 16] In regards to claim 16, Hartunian and Neel teach the apparatus of claim 2 (see rejection of claim 2). In column 4, lines 4-7 Hartunian teaches that the fastening means is configured as a VELCRO® fastener. In Figures 1 and 2 Hartunian teaches that the fastening means (21, 25, 24') are provided on the annular part (10) for fastening or fixing a substantially tube-shaped therapeutic device.

11. Claims 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartunian (US patent 6,058,517) in view of McElvenny (US patent 3,320,950).

[Claim 10] In regards to claim 10, Hartunian teaches the apparatus of claim 1 (see rejection of claim 1). Claim 4 has been cancelled by applicant. Hartunian does not teach that the lightweight material is non-woven felt. In column 2, lines 35-36 McElvenny teaches an analogous device in which the sheet (18) is made of non-woven felt. It would have been obvious for one having ordinary skill in the art at the time of invention to modify the protective collar taught by Hartunian with the non-woven felt material taught by McElvenny because that element is know to make the protective collar taught by Hartunian more lightweight and comfortable when worn for therapeutic use.

[Claim 15] In regards to claim 10, Hartunian teaches the apparatus of claim 1 (see rejection of claim 1). Claim 4 has been cancelled by applicant. Hartunian and McElvenny teach that apparatus of claim 10 (see the rejection of claim 10). Hartunian does not teach that the lightweight material is non-woven felt. In column 2, lines 35-36 McElvenny teaches an analogous device in which the sheet (18) is made of non-woven felt.



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA HICKS whose telephone number is (571)270-7033. The examiner can normally be reached on Monday through Thursday, 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571)272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. H./  
Examiner, Art Unit 4158  
10/14/08

/Fenn C Mathew/  
Primary Examiner